

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 19, 2006 - KW
Bulk Item: Yes XX No

Division: County Attorney
Staff Contact Person: Pedro Mercado

AGENDA ITEM WORDING:

Approval of *Lease Amendment* with Conch Flyer, Inc.

ITEM BACKGROUND:

Conch Flyer, Inc. doing business as the Conch Flyer Restaurant at the Key West International Airport is seeking an extension to their lease which is currently set to expire in 2010. The Conch Flyer will be outfitting and equipping the new food services facilities at the renovated and expanded airport. The capital outlay will total at least one million dollars. Conch Flyer, Inc. provided the County with a letter from First State Bank, who will be providing financing to Conch Flyer, indicating the need for a lease extension in order to properly amortize the loan.

PREVIOUS RELEVANT BOCC ACTION:

Approved original lease on April 18, 1983 as well as subsequent amendments on January 23, 1985, October 7, 1992, April 8, 1998, December 17, 2003 and May 19, 2004.

CONTRACT/AGREEMENT CHANGES:

N/A

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes XX No **AMOUNT PER MONTH** \$6,000 + **Year**

APPROVED BY: County Atty OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:


SUZANNE A. HUTTON, COUNTY ATTORNEY

DOCUMENTATION: Included X Not Required

DISPOSITION:

AGENDA ITEM #

**LEASE AMENDMENT
KWIA
CONCH FLYER, INC.**

This is an amendment to a lease dated April 18, 1983 (hereafter the original agreement) by and between the predecessor in interest to the Conch Flyer, Inc., (hereafter Lessee), one Fred B. Sellers, Sr., and Monroe County, a political subdivision of the State of Florida (hereafter County).

WITNESSETH

WHEREAS, Key West International Airport terminal building is under contract to undergo renovation and expansion of its current facilities; and

WHEREAS, Conch Flyer, Inc., currently holds a lease for food service facilities within the Key West International Airport Terminal Building through January 22, 2010; and,

WHEREAS, the terminal expansion and renovation project will require a substantial investment by Conch Flyer, Inc., in order to properly equip and outfit the food services facility within the newly renovated and expanded airport terminal building; and,

WHEREAS, Conch Flyer, Inc., has applied for financing with First State Bank in order to fund the outfitting of the new food service facilities; and,

WHEREAS, First State Bank has indicated by letter dated January 26, 2006 that Conch Flyer, Inc., will need to obtain a lease extension in order to properly amortize the loan; and;

WHEREAS, Conch Flyer, Inc. will need to expend at least one million Dollars(\$1,000,000) in order to properly outfit and equip the new food services facility; now, therefore,

IN CONSIDERATION of the mutual promises and covenants set forth below, the parties agree as follows:

1. The original lease agreement between the parties (and Lessee's predecessor), and amendments dated January 23, 1985, October 7, 1992, April 8, 1998, December 17, 2003 and May 19, 2004 are attached to this lease amendment and made a part of it.
2. The term of the original lease agreement is extended from January 23, 2010 through January 22, 2030.
3. Article III – RENTAL CHARGES, subsection A.1(a) of the original lease is amended to read as follows:
 - (a) That Lessee agrees to pay 10% of gross proceeds or receipts each month but no less than a guaranteed \$2,000 per month.
Beginning with the July 2007 monthly rental payment, Lessee agrees to pay 10% of gross proceeds or receipts each month but no less than a guaranteed \$6,000 per month.

4. If Conch Flyer, Inc. has not properly outfitted or equipped the food services facility by July 4, 2007 by expending one million dollars (\$1,000,000) for such purposes, this amendment shall become void.
5. In all other respects, the original lease agreement, as amended, remains in full force and effect.
6. This lease amendment will take effect on the signature date of the last party to execute it.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson

Date _____

GARDENS OF EDEN


By _____

Title _____

Witnesses

Date _____

This document was prepared and approved as to form by:


Pedro J. Mercado, Esq.
Assistant County Attorney
Florida Bar No.: 0084050
P.O. Box 1026
Key West, FL 33041-1026
(305) 292-3470



THE CONCH FLYER RESTAURANT

*3495 South Roosevelt Blvd. Key West, FL 33040
Phone 305-296-6333 Fax: 305-293-9196*

March 5, 2006

Mr. Peter Horton
Monroe County Director of Airports
Key West International Airport
Key West, FL 33040

Subject: Lease Extension of Conch Flyer Restaurant

Dear Peter,

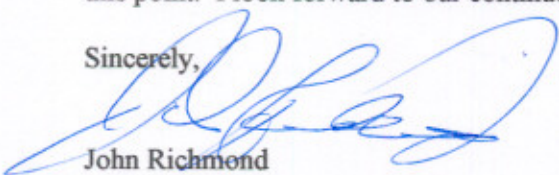
As requested in our last series of meetings, please find enclosed a copy of the most recent lease amendment cover page extending our lease till January 22nd, 2010. This is the most current document in our lease file.

As we have discussed, we are requesting our lease be extended an additional 20 years (January 22nd 2030) in order to amortize our build out investment of over one million dollars. To date, I have invested over \$25,000 in architectural and design fees on our new project but in order to secure further financing from our lending institution, they will require a signed extension to our lease. First State Bank has given preliminary approval to our loan pending our lease extension. I have enclosed a letter from Diane Gibson and Kurt Lewin detailing their requirements.

At current rates of interest on commercial monies, I cannot see a practical way to amortize this amount of debt within a shorter time frame and still be able to provide the traveling public with "reasonably priced" food and beverage service. As you and I both agreed, we don't want the type of airport "clip joint" that sells \$12 hamburgers. I feel that with this extension, we will be able to maintain our established prices and quality, while still being able to service our debt.

Again, my thanks to you and all the other professional we have worked with for the past two years to get to this point. I look forward to our continued relationship.

Sincerely,



John Richmond
Conch Flyer, Inc.

Cc/file

January 26, 2006

John Richmond
C/O Conch Flyer Inc.
3495-B S Roosevelt Blvd.
Key West FL 33040

RE: Financing Request
Conch Flyer, Inc.

Dear John:

It was my pleasure to meet with you recently to discuss my assistance with your financing needs for the renovation of your restaurant at the Key West Airport.

I attended the ground-breaking ceremony and First State Bank is very excited about this beautiful remodeling of the airport facility.

At the time we met, I handed to you a checklist of items that we will need to process your loan request and had discussed needing a copy of your existing lease. In checking with our Senior Lending Officer, Kurt Lewin, I was advised that we will also require a copy of your lease extension.

I look forward to working with you on this project and to help you secure your financing. If you should have any questions, please feel free to contact me at (305) 293-6800.

Sincerely,

Diane J. Gibson

Diane J. Gibson
Vice President
Branch Manager

/djg



Key West Offices: Main, Boulevard, Key West Winn Dixie, Old Town, Stock Island
Lower & Middle Keys Offices: Sugarloaf, Summerland, Big Pine Annex, Big Pine Winn Dixie, Marathon
Upper Keys Offices: Islamorada, Key Largo, Key Largo Tradewinds Plaza

CONCH FLYER RESTAURANT RENTAL PROPOSAL:

Analysis of New Restaurant Square Footage Charges:

MAIN TERMINAL TICKETING AREA RESTAURANT:

Dining Room, Cocktail Lounge Sq/ft:	2770.
Kitchen, Storage, and Prep Area	1205

TOTAL SQUARE FOOTAGE:	3975
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SECURE DEPARTURE AREA RESTAURANT:

Dining Area and Customer Service Areas:	440
Kitchen, Storage, and Prep Area	525

TOTAL SQUARE FOOTAGE:	965
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OUTSIDE BEACH AREA CUSTOMER SEATING:

Dining Area and Customer Service Areas:	925
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TOTAL SQUARE FOOTAGE:	925
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TOTAL INTERIOR SQUARE FOOTAGE:	4900.
TOTAL EXTERIOR SQUARE FOOTAGE:	925
TOTAL INTERIOR AND EXTERIOR SQUARE FOOTAGE	5825

PROJECTED INCOME FROM OPERATIONS:

Main Restaurant: (assuming a 20% increase in operations):	\$70,373.18
Beach and Patio: (Estimated on Projected Traffic Flow)	\$36,500.00
Contribution to Capital Improvements (Long term Debt)	\$96,671.16 ←

TOTAL REVENUES TO TENANT SPACES:	\$203,544.32
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Revenue per Square Foot: (Proposed)

Interior Square Footage (\$37.00 per ft/sq)	\$181,300.00*
Ex X Interior Square Footage (\$24.00 per ft/sq) - Beach	\$22,200.00

RENT PROPOSAL:

We propose that the current rent obligation of 10% of Gross Sales from revenue operation continue in the new lease agreement. It is our projection that the increase in traffic flow to restaurant and the addition of the second location in the departure lounge will offset the increase in rent and costs and still provide the County with the required square foot revenues in need. As in the existing lease, the tenant would receive credit over the lease term for monies invested in capital improvements. We would also be agreeable to the Monthly minimum specified in existing lease agreement be raised from its present level of \$2,000 to \$6,000

CONCH FLYER RESTAURANT

Three year Sales Analysis

	³ 2002	⁴ 2003	⁵ 2004	AVERAGE
January	\$43,965.57	\$43,408.96	\$47,530.42	\$44,968.32
February	\$47,999.21	\$54,133.34	\$54,083.89	\$52,072.15
March	\$53,085.74	\$51,107.73	\$68,192.54	\$57,462.00
April	\$42,610.21	\$40,154.86	\$52,614.63	\$45,126.57
May	\$42,302.77	\$41,855.60	\$49,885.16	\$44,681.18
June	\$40,826.71	\$39,004.59	\$41,610.40	\$40,480.57
July	\$34,459.68	\$36,993.26	\$44,156.40	\$38,536.45
August	\$30,832.36	\$26,172.26	\$41,952.19	\$32,985.60
September	\$35,043.92	\$32,654.95	\$22,451.80	\$30,050.22
October	\$39,553.11	\$41,876.73	\$39,464.23	\$40,298.02
November	\$39,684.14	\$46,049.35	\$42,720.29	\$42,817.93
December	\$36,510.00	\$33,144.64	\$40,866.62	\$36,840.42
TOTALS:	\$486,873.42	\$486,556.27	\$545,528.57	

	RENT PAID	RENT PAID	RENT PAID	RENT PAID
January	\$4,726.30	\$4,666.46	\$5,109.52	\$4,834.09
February	\$5,159.92	\$5,819.33	\$5,814.02	\$5,597.76
March	\$5,706.72	\$5,494.08	\$7,330.70	\$6,177.17
April	\$4,580.60	\$4,316.65	\$5,656.07	\$4,851.11
May	\$4,547.55	\$4,499.48	\$5,362.65	\$4,803.23
June	\$4,388.87	\$4,192.99	\$4,473.12	\$4,351.66
July	\$3,704.42	\$3,976.78	\$4,746.81	\$4,142.67
August	\$3,314.48	\$2,813.52	\$4,509.86	\$3,545.95
September	\$3,767.22	\$3,510.41	\$2,413.57	\$3,230.40
October	\$4,251.96	\$4,501.75	\$4,242.40	\$4,332.04
November	\$4,266.05	\$4,950.31	\$4,592.43	\$4,602.93
December	\$3,924.83	\$3,563.05	\$4,393.16	\$3,960.35
TOTALS:	\$52,338.89	\$52,304.80	\$58,644.32	\$54,429.34

AVERAGE MONTHLY RENTAL:

\$4,535.78

MINIMUM REQUIRED IN LEASE AGREEMENT

\$2,000.00

MINIMUM RENT PER SQ/FT REQUIRED: (2822ft/sq)

\$8.50

per Ft/Sq.

ACTUAL RENT PAID PER SQ/FT:

\$20.78

per Ft/Sq.

ESTIMATED PAYMENT TO AMORTIZE DEBT:

\$1,000,000 @ 7.5% 20 Year Schedule

\$8,055.93

ARTICLE III - RENTAL CHARGES

by the Lessor for the use of these premises, facilities, rights, licenses, services and privileges granted hereunder, the following rentals, fees and charges, all payable in monthly installments covering the ensuing calendar months. Should it occur that the commencement or cessation of the terms with respect to any of the particular premises, facilities, rights, licenses, services and privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable rentals, fees and charges for that month shall be paid for that month prorata according to the number of days in that particular month during which said particular premises, facilities, rights, licenses, services and privileges were enjoyed; and the Lessee further agrees to pay on or before the 15th day of each month following the last day of each calendar month throughout the leasehold term the following:

- (a) That Lessee agrees to pay 10% of gross proceeds or receipts each month but no less than a guaranteed \$2,000.00 per month.
- (b) First month's guaranteed rent of \$2,000.00 shall be paid when this lease is signed and a security deposit equal to a guaranteed month's rent to be paid when business opens.

It is agreed by the parties hereto that during the first five (5) years of this lease agreement, the Lessee shall be entitled to a credit for any rental sum due to the Lessor in excess of \$2,000.00 per month until the amount expended for permanent improvements made on the premises such as the plumbing, the electrical work, the duct work for the air conditioning and other permanent fixtures, (excluding however, the furnishings), have been recaptured by Lessee. Said credit shall extend until such permanent improvements have been recaptured in accordance with a list of the same attached hereto and marked Exhibit "B" and approved by both the Lessor and Lessee.

The determination of credit shall be based on invoices and receipts

A 1,724 square foot Cocktail Lounge, Restaurant and Coffee Shop and a 1,098 square foot kitchen, washrooms, utility area, all located within the passenger terminal building at the Key West International Airport, Key West, Florida. Also to include the area between the Airport Terminal and to the western edge of the fire access road located adjacent to the P.B.A. Building and the parking ramp in front of the Terminal reflected on the plans made a part hereof and marked Exhibit "A". It is understood that no major structural or design change shall be made from Exhibit "A" or shall be begun except with written consent of Lessor.

A.2 This operation shall permit the retail sale of food and beverages normally associated with an airport restaurant and coffee shop. No other operation concerning the sale of food and/or beverages shall be allowed in the terminal building during the term of this lease, except the sale of packaged candy, gum, etc., in the gift shop or sodas, etc., in vending machines.

A.3 That the Lessor shall cause the transfer for the retail liquor license 6 COP No. 54-515 from a third party to the Lessee upon the execution and delivery of this lease. That said retail liquor license shall not be transferred from the present location, namely, Key West International Airport, Key West, Florida. Further, that in the event this lease shall expire or shall be terminated by reason of violation or non-performance by the Lessee of any of the covenants, agreements, and/or conditions herein, the Lessee agrees to execute whatever documents may be required to transfer the said retail liquor license to the Lessor, or to such person or persons as Lessor may designate. Further, it being fully understood and agreed by and between all parties to this lease, that said retail liquor license has not been sold to the Lessee but merely transferred to him during the period of this lease, or until this lease is terminated by reason of violation or non-performance